SUMMARY OF PRESENT LAW, DESCRIPTION OF PROVISIONS, AND POSSIBLE MODIFICATIONS TO H.R. 3475, THE TAX LAW SIMPLIFICATION AND IMPROVEMENT ACT OF 1983

Prepared by the staff of
the Joint Committee on Taxation
for use by
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INTRODUCTION

This document, prepared for use by the Committee on Ways and Means, provides a comparative description of present law, H.R. 3475 ("The Tax Law Simplification and Improvement Act of 1983"), and possible modifications to H.R. 3475.

Item	Present law	H.R. 3475	Possible modifications to H.R. 3475
TITLE I--Individual estimated tax.	a. Penalty (computed at current interest rate) is imposed on underpayment of individual estimated tax. Amount of underpayment is based on difference between payments (including withholding) made and 80 percent of tax shown on return.	a. Underpayment would be based on lesser of 80 percent of tax shown on return and 100 percent of tax shown on preceding year's return.	
	b. Payment dates are April 15, June 15, September 15, and January 15.	b. June 15 date would be changed to July 15.	b. The June 15 date would be retained.
	c. Penalty may not be waived.	c. Penalty may be waived for reasonable cause.	c. Penalty would be waived only as the result of casualty, disaster or circumstances where imposition of tax would be inequitable.
	d. No penalty imposed if payment equals amount based on:	d.	d.
	(1) tax shown on preceding year's return (unadjusted for subsequent changes);	(1) See (a) above; (preceding year's return adjusted for subsequent changes).	(1) The present rule not taking adjustments into account would be retained.
	(2) 80 percent of current year's tax computed on income to date placed on annualized basis;	(2) Retains exception.	
	(3) 90 percent of tax on income to date;	(3) Repeals exception.	
	(4) tax on prior year's facts and current year's rates and exemptions.	(4) Repeals exception.	
	e. Estimated payments of the alternative minimum tax not required.	e. No provision.	e. Estimated tax payments of the alternative minimum tax would be required.

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TITLE II--Domestic Relations			
1. Treatment of transfer of property between spouses or incident to divorce.	a. Gain is recognized on transfers of property in exchange for the release of marital claims.	a. Transfers of property between spouses or incident to divorce would be non-taxable, carryover basis transactions.	
2. Alimony.	a. Alimony paid under divorce or separation instruments is deductible by the payor and includible in the income of the payee.	a. No change.	
	b. Alimony must be in discharge of a legal obligation because of family or marital relationships; the payment may not discharge a principal sum with an exception for certain payments which exceed 10 years.	b. Present law requirements would be repealed; requirements to qualify as alimony would be as follows: (1) Cash payment. (2) Payor and payee are not members not members of same household at time of payment. (3) Payment must be terminable at death of payee spouse. (4) Payment may not be for property.	(2) This rule would not apply in the case of a support decree not incident to divorce. (4) This requirement would be deleted.

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		(5) It must be reasonable to expect that at least one-half the amount of payments will be made more than 12 months after first payment.	(5) This requirement would be deleted. In order to limit the deductibility of disguised property settlements, the excess of the amount of alimony paid during the first calendar year over the average amount paid in the second and third calendar years would be recaptured. This rule would not apply in the case of death, remarriage of the payee, or where the alimony payment during the first calendar year does not exceed $15,000.
		(6) The parties do not designate the payment as not being alimony.	
	c. Payments fixed as child support are not deductible.	c. No change.	
	d. No requirement to furnish name or social security number of payee.	d. Payee must furnish payor with social security number and payor must furnish name and social security number of payee to IRS; a $50 penalty for failure to comply.	
3. Dependency exemption.	a. A $1,000 deduction allowed for dependent child of taxpayer; to qualify as dependent of taxpayer, taxpayer must furnish over one-half of support.	a. No change.	

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	b. Special rules for divorced or legally separated parents or parents separated under written separation agreement where the two parents provide more than one-half the support.	b. Special rules would be extended to parents living apart at all times during last 6 months of calendar year.	b. Support provided by step-parents where parent remarries would be treated as support provided by the parent in applying these rules.
	Custodial parent allowed dependency exemption unless either:		
	(1) If decree or agreement provides that noncustodial parent entitled to deduction and that parent provides at least $600 support, that parent treated as providing over one-half support.	Custodial parent allowed dependecy exemption unless that parent signs a declaration that he or she will not claim exemption for the taxable year and non-custodial parent attaches declaration to return.	
	(2) If custodial parent furnishes at least $1200 support, that parent is presumed to furnish over one-half support unless custodial parent clearly establishes otherwise.	Pre-1984 agreements described under (1) of present law would be grandfathered.	

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	c. Medical expense deduction allowed for expenses of dependent child.	c. Treats child as dependent of both parents for purposes of medical expense deduction.	
	d. Numerous different rules relating to status of married individuals living apart.	d. Provides that parents living apart for last 6 months of year could be treated as unmarried or head-of-household if other tests are met. Eligibility for unmarried status, head-of-household status, earned income credit, and credit for dependent care not lost where custodial parent waives right to claim dependency exemption.	
4. Innocent spouse relieved of liability in certain cases.	a. Spouse filing joint return may be relieved of liability for tax if (1) more than 25 percent omission from gross income attributable to other spouse, (2) the spouse establishes that he or she had no knowledge, or reason to know of unreported income, and (3) it would be inequitable to hold the spouse liable, taking into account whether the spouse significantly benefitted from the omission.	a. The rule would apply to substantial understatements resulting from (1) omitted income and (2) deductions and credits with no basis in law or fact. Substantial understatement would be understatement exceeding 10 percent of tax or $500, whichever is less. It must be inequitable to hold spouse liable.	a. Substantial underpayment would be underpayment exceeding $500.

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	b. Community income treated as income of both spouses. Exception where spouses live apart for the entire year, file separate returns, and one spouse has earned income which is not transferred to other spouse.	b. Exception extended to situations where a spouse establishes that he or she did not know, or have reason to know, of item of community income, and it is inequitable to include the item in that spouse's income.	
5. Estate tax.	a. No gift tax liability for transfers of property to spouse in settlement of marital or property rights pursuant to written agreement where divorce occurs within 2 years of agreement.	a. Provides estate tax deduction for transfers pursuant to these written agreements.	

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TITLE III--At Risk.			
1. Investment tax credit "at risk" rules.	a. Present law generally limits the amount of property on which a taxpayer (other than a non-closely held corporation) may claim the investment tax credit to the amount the taxpayer is "at risk" in the activity in which the property is used. Real estate and certain corporate leasing activities are exempt from this rule.	a. Generally retains present law, but revises the operation of the rules so as to specifically disallow the credit with respect to property financed with nonrecourse borrowing.	
	b. Exception for loans from persons in the lending business who are unrelated to the seller or to the taxpayer where the taxpayer is at least 20 percent at-risk at all times.	b. Generally, retains this exception. Adds an exception for recourse loans to a subchapter S corporation where the loan is from an unrelated commercial lender and the property is used in an active trade or business with at least 3 full-time employees.	
	c. Present law allows a lessor to pass the credit through to the lessee. The application of the at-risk rules to these leases is unclear.	c. No provision.	c. In the case of a pass-through lease, the at-risk rule would apply to the lessor. In addition, the lessee must be liable to make payments the present value of which at the beginning of the lease (assuming the rate of interest used in computing interest on tax deficiencies) must exceed 30 percent of the value of the property.

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2. "At-risk" rules for losses.	a. Present law limits the losses from an activity which a taxpayer (other than a non-closely held corporation) may claim to the amount the taxpayer is at risk in the activity.	a. No provision.	a. An active trade or business of a subchapter C corporation (other than a personal holding company or personal service corporation) would not be subject to any at-risk rules. A trade or business would be required to have three full-time employees and its "out-of-pocket" business expenses must exceed 15 percent of gross income. The at-risk rules would be applied on a trade or business basis.
	b. A taxpayer is not at risk for amounts borrowed from a related party.	b. No provision.	b. A taxpayer could be at risk for amounts borrowed from a related party.

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TITLE IV--Estate and Gift Taxation.			
1. Reformation of charitable split-interest trusts.	a. Split-interest gifts involving a charitable and a noncharitable beneficiary generally must be drafted as a unitrust or annuity trust, a gift to a pooled income fund or a gift in a farm or personal residence. Improperly drafted instruments executed before December 31, 1978, can be reformed if proceedings were begun before January 1, 1982.	a. Would provide a permanent rule allowing reformations of certain improperly drafted instruments (see below) subject to restrictions: The relative actuarial values of the charitable and noncharitable interests could not change by more than 5 percent as a result of the reformation. The term of the income interests could not change as a result of the reformation (except for a reduction to 20 years in the case of longer noncharitable interests in charitable remainder trusts).	a. The following two additional rules would be added: Contingencies that can only accelerate a charitable remainder interest would be ignored. Treasury would be directed to provide rules similar to those for annuity trusts and unitrusts for gifts to pooled income funds. Treasury would be directed to prescribe rules similar to those for annuity trusts and unitrusts for reformation of gifts of remainder interests in farms and personal residences.

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		b. Only charitable remainder trusts in which the noncharitable interest is expressed as a specified dollar amount or a fixed percentage of the fair market value of the trust qualify for reformation.	b. Same except: If reformation proceedings begun within 90 days of estate tax filing date (90 days of first trust income tax return date if no estate tax return required), noncharitable interests not required to be expressed as specified dollar amount or fixed percentage of trust fair market value; If reformation begun after 90-day window, noncharitable interests would have to be expressed as specified dollar amount or fixed percentage of trust fair market value.
		c. Death of all noncharitable beneficiaries of a charitable remainder trust before filing date would be treated as reformation.	c. Same rule except would clarify that value of charitable gift is determined without regard to early termination of income interests.

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		e. The provision would apply to trust reformations occurring after December 31, 1981.	e. Same, except would reopen period of limitations for estate tax refund claims if eligible to reform under new rules.
2. Alternate Valuation Date.	a. Executors can elect to value all property in a decedent's gross estate 6 months after the decedent's date of death rather than on the date of death.	a. The alternate valuation election would be limited to estates where making the election-- (1) decreases the total value of the gross estate, and (2) decreases the estate's Federal estate tax liability.	
	b. The alternate valuation election must be made on a timely filed estate tax return.	b. The alternate valuation election would have to be made on the first estate tax return filed (even if not timely).	

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TITLE V--Foreign			
1. Definition of resident alien.	a. All individuals who are not U.S. citizens are either resident aliens or nonresident aliens of the United States. Residence depends on the alien's subjective intent. Resident aliens, like U.S. citizens, are subject to U.S. tax on worldwide income (although the foreign tax credit may reduce or eliminate U.S. tax on foreign income). Nonresident aliens are generally subject to U.S. tax only on income that arises in the United States and on income from U.S. businesses. When an individual changes his status from resident alien to nonresident alien (or vice versa), his or her taxable year consists of two separate periods. During one period, the United States will tax worldwide income; during the other period, the United States will normally tax only U.S. income.	a. An alien would be a resident for the entire calendar year if: (i) he is a lawful permanent resident of the United States at any time during the year (the "green card test"), or (ii) he has an application for an immigrant visa pending at any time during the year and is present in the United States for at least 60 days (the "green card application test"), or (iii) the sum of (1) the days present during the current year, (2) two-thirds times the days present during the preceding year, and (3) one-third times the days present during the second preceding year equals or exceeds 183 (the "cumulative presence test"). Presence as a commuter from Canada or Mexico would not count.	a. (i) Residence under the green card test would begin on the day the alien entered the United States. (ii) The green card application test would be deleted, but green card applicants would be ineligible for the closer connections exception to the cumulative presence test. (iii) Beginning of tax residence under cumulative presence test: Prior year residents: January 1. Others: not before the first day of U.S. presence. Aliens here briefly before moving here could prove closer connections with a foreign country for the part of the year before moving. Termination of tax residence: no termination for aliens who are residents the next year. Otherwise, residence would end no sooner than the last day of U.S. presence. Aliens here briefly after moving away could prove closer connections with a foreign country for the part of the year after moving.

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		b. Status exceptions.--The cumulative presence test would not apply to diplomats (indefinitely), teachers or trainees (generally for 2 years only), or students (generally for 5 years only) unless they intend to reside permanently in the United States.	b. Hospital patients who entered the United States for reasons other than medical treatment would also be eligible for the closer connections exception to the cumulative presence test even if here more than 183 days.
		c. "Closer connections/tax home" exception.--The cumulative presence test would not apply to individuals present for fewer than 183 days during the year who established closer connections with a foreign country than with the United States and a tax home there for the year. An alien cannot have a tax home abroad if he has his abode in the United States.	c. The abode portion of the closer connections/tax home exception would be deleted.
		d. The cumulative presence test would count days of presence in 1982 and 1983 for all aliens.	d. For the cumulative presence test, days of presence in 1982 would count only for aliens who had been residents (under existing law) in 1982 and 1983; presence in 1983 would count only for residents (under existing law) in 1983.
		e. A taxpayer who has not established a taxable year for any period prior to the time he becomes taxable in the United States would be taxed on a calendar year basis.	

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2. Treatment of community property income of nonresident aliens.	a. A married couple both of whom are nonresident aliens may use community property laws to split the U.S. earned income of one spouse for computing U.S. tax liability.	a. The bill would end the ability of nonresident alien individuals to use community property laws to split the U.S. earned income of one spouse.	a. The bill would allow a married nonresident alien individual from any country to pay tax on U.S. earned income at the rates applicable to single individuals.
3. Foreign Personal Holding Company Rules.	a. To determine whether a foreign corporation is a foreign personal holding company, a U.S. person is considered to own the stock of his nonresident alien spouse, blood relatives, or partners.	a. The bill would end attribution of ownership of stock actually owned by a nonresident alien to the alien's U.S. blood relatives.	
	b. Interposition of foreign entities between U.S. taxpayers and foreign personal holding companies arguably prevents application of the foreign personal holding company rules.	b. The bill would disregard the interposition of foreign partnerships and other foreign entities between U.S. taxpayers and foreign personal holding companies.	b. A transitional rule could be provided to allow certain existing structures until the end of 1984 to unwind.

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4. Ordinary income treatment on disposition of stock of certain foreign corporations under Code section 1248.	a.	When a U.S. person disposes of stock of a controlled foreign corporation, some of his gain may be taxed as ordinary income, not as a capital gain (Code section 1248). There may be sometimes be double counting of ordinary income and foreign tax credits.	a. The bill would preve double counting of o income and foreign t credits on account o foreign corporation. would apply to trans occurring after date enactment.	linary a It tions f
	b.	There may be different treatment of a U.S. person's indirect ownership of a controlled foreign corporation and a U.S. person's direct ownership.	b. The bill would treat person's indirect o of a controlled for corporation like di ownership.	a U.S. ership gn ct
5. Coordination of subpart F with foreign personal holding company provisions	a.	Taxation under the foreign personal holding company rules may preclude taxation under the anti-tax-haven-activity rules of Subpart F.	a. A controlled foreign corporation's income be taxed under Subpa the extent that it w taxable under both S F and the foreign pe holding company rule	ould F to ld be part ional

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6. Stapled Stock.	a. Shares in one corporation may be transferable only in tandem with shares of a "sister" corporation. These shares are "stapled."	a. The bill would apply to entities 50 percent or more of which could be transferred only in tandem with interests in another entity.	
	b. A U.S. corporation owning a foreign corporation may avoid the controlled foreign corporation rules and the anti-boycott rules by spinning off the foreign corporation. Management may retain control if the stock of the two corporations is stapled.	b. Generally, where a foreign and a domestic corporation are stapled entities, the foreign corporation would be treated as domestic.	b. A stapled foreign entity could elect to be treated as the subsidiary of its U.S. sister rather than as a U.S. corporation; stapled entities could not claim non-U.S. status by virtue of a treaty unless they were entitled to treaty benefits on June 30, 1983.
	c. U.S. corporations may avoid restrictions on RICs and REITs by stapling their stock with stock of other U.S. entities.	c. All stapled entities would be treated as one in determining whether any one is a REIT or RIC.	
	d. U.S. corporations may seek multiple surtax exemptions, accumulated earnings tax credits, etc., by stapling.	d. In determining controlled corporation status or stock ownership, one stapled corporation will be treated as owning the other. In addition, the Secretary may prescribe regulations to prevent tax avoidance or evasion through stapling.	

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		Effective date.--This provision would take effect on the date of enactment of the bill. However, for interests stapled before the date of introduction, the amendment would not apply until January 1, 1985.	This provision would not be applied to REITS whose interests were stapled before the date of introduction, until January 1, 1994.

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TITLE VI--Miscellaneous Treasury Administration Provisions.			
1. Reports.	a. Annual DISC report required 15 1/2 months after end of calendar year.	a. Report required every second year. Due 27 1/2 months after close of second year.	
	b. Annual international boycott report due as soon as data becomes available.	b. Report required for every 4-year period, beginning in 1983.	b. The reporting cycle would begin in 1982.
	c. Annual possessions corporation report due 18 months after close of year.	c. Report required every second year.	c. Report would be required 24 months after close of year.
	d. Information required to be published annually on amount of tax paid by high income individuals. Total income required to be computed in three ways.	d. Amends methods of computing total income. Does not affect amount of information required to be published.	
2. Working capital fund.	a. A $1 million dollar limit is imposed on the Treasury Department's Working Capital Fund.	a. Removes $1 million limit.	
3. Revolving fund for redemption of real property.	a. Revolving fund for redemption of real property authorized $1 million.	a. Increases authorization limit to $10 million.	

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4. Secretary of Treasury authorized to accept gifts and bequests.	a. Secretary of Treasury has no authority to accept gifts and bequests on behalf of Department.	b. Authorizes Secretary to accept gifts and bequests for purposes of aiding Department.	a. Disclosure of the source of gifts and bequests and the purposes of expenditures would be required.
5. Stamp requirement for distilled spirits.	a. Present law allows Government-supplied strip stamps closure device on distilled spirits containers.	a. Repeals the use of strip stamps effective January 1, 1984.	a. The use of strip stamps would be repealed effective January 1, 1985. Distilled spirits containers would be required to bear an alternative closure device designed to be broken to open container.
6. Refund of tax on spirits used for food or medicinal purposes.	a. Present law provides for refund of tax on distilled spirits used for food or medicinal purposes. Failure to comply with regulations results in denial of claim.	a. No provision.	a. Treasury would have authority to assess penalty of up to $1,000 for failure to comply with regulations, in lieu of denying claim.
7. Disclosure of tax return information on producers of alcohol for use in alcohol fuels.	a. Treasury is prohibited from disclosing tax return information, except under limited circumstances. Information may be provided to other Federal agencies and State tax authorities.	a. No provision.	a. Treasury could disclose names and addresses of producers of alcohol for fuel use to State beverage regulation agencies, with appropriate safeguards.

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8. Tax on still manufacturers.	a. Present law imposes tax of $55 per year on still manufacturers, plus $22 for each still or condenser. Law mandates registration of still.	a. No provision.	a. The taxes on still manufacturers would be repealed. Registration requirements would be maintained.
9. Time for review of jeopardy assessments.	a. Present law requires a U.S. District Court, within 20 days after an action is commenced, to determine whether a jeopardy assessment was reasonable.	a. Extends the 20-day period where the Government is not served within 5 days of commencement of action.	
10. Removal of $1 million limitation on Secretary's special authority to dispose of obligations.	a. Present law allows the Secretary to dispose of obligations acquired by the Secretary. Limits to $1 million the amount of obligation of one issuer that could be held for such disposition.	a. No provision.	a. The $1 million limitation would be repealed.
11. Extension of period of assessment.	a. Generally, a tax must be assessed within 3 years from the date a return is filed.	a. No provision.	a. A minimum 60-day period would be provided to assess an unpaid tax shown on an amended return.
12. Certified treasurer's or cashier's check issued by financial institutions.	a. The Government has a lien on the assets of a bank or trust company which issues an unpaid certified treasurer's or cashier's check for the payment of taxes.	a. No provision.	a. This rule would be extended to the guaranteed draft of all financial institutions.
13. Disclosure of windfall profit tax information to the States.	a. Present law authorizes the IRS to disclose to the States' tax agencies, returns with respect to numerous taxes.	a. No provision.	a. Disclosure of the windfall profit taxes to State tax agencies would be authorized.

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TITLE VII--Tax Court Provisions.			
1. Representation of taxpayer.	a. Tax cases involving $5,000 or less, at the taxpayer's option, may be heard in a small case procedure in which the decision is final. Taxpayers may appear pro se or be represented by any person admitted to practice before the Tax Court.	a. The bill would allow certified public accountants and enrolled agents to represent a taxpayer in a small tax case.	a. The $5,000 limit on small tax cases would be increased to $10,000.
	b. The Tax Court conducts an examination to allow persons other than lawyers to be admitted to practice before the Court.	b. The requirement to admit persons other than lawyers would be repealed.	
2. Survivor annuities.	a. If a Tax Court judge is survived by a dependent child or children, an annuity is provided. The maximum limits on these annuities has not been changed since 1961.	a. The maximum limits on annuities for surviving children would be increased to the level provided surviving children of U.S. District Court judges.	a. The bill would provide for an inflation adjustment similar to that applicable to annuities for survivng spouses of Tax Court judges and for surviving spouses and children of District Court judges.
3. Commissioners.	a. Proceedings involving less than $5,000 may be assigned to Commissioners to make a decision.	a. The bill provides that other proceedings may be assigned to be heard by Commissioners, but no decision with respect to these proceedings may be made by a Commissioner. The title of "Commissioner" would be changed to "Special Trial Judge".	

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4. Publicity of Tax Court proceedings.	a. Reports of the Tax Court and evidence received by the Court are open to public inspection.	a. The bill would clarify that the Court may prevent the disclosure of trade secrets and other confidential information.	

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TITLE VIII--Income tax credits.	a. Present law provides a series of nonrefundable income tax credits. The order of use, length of carryover periods, order of carryovers, and tax liability limitations among the various credits are not coordinated.	a. The bill provides: (1) personal credits would be allowed first, and (2) the business credits (i.e., investment credit, targeted jobs credit, alcohol fuels credit, research credit, and ESOP credit) would be combined into a single credit which would be allowed on a FIFO basis, with a 3-year carryback and 15-year carryforward period. The business credit would be limited to the first $25,000 of tax liability plus 85 percent of the remaining income tax liability.	a. The bill would provide that the component credits of the business credit for any taxable year are used in the following order: (1) alcohol fuels credit (2) investment tax credit (3) targeted jobs credit (4) research credit (5) ESOP credit. This would clarify the application of special rules, such as normalization, to the components of the credit. Because the alcohol fuels credit and jobs credit reduce the income, a taxpayer could elect to not claim those credits, and a deduction would be allowed if those credits expire unused. Also, it would be clarified that pre-1984 credits (including the old ESOP investment credit) carried to post-1983 years and post-1983 credits (including the new ESOP credit) carried back to pre-1984 years would be allowed in accordance with the substantive law (apart from the tax liability limits) in which they were earned.

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TITLE IX--Deadwood.	a. Present law provides for the issuance of certain government retirement bonds. Treasury has terminated the sale of these bonds.	a. The bill would repeal the provisions of law relating to these bonds. Current holders of the bonds would be governed by present law, but could redeem the bonds at any time.	
	b. Present law provides for the recapture of certain farm losses. These provisions were terminated for losses after 1975.	b. The bill would repeal the farm loss recapture provision.	